

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

MORAN INDUSTRIES, INC.)	
)	
Plaintiff,)	
)	No. 07 CV 6171
v.)	
)	Judge Joan Lefkow
JOHN HEIDEMAN and KILIMANJHARO EQUITY INVESTMENTS, LLC)	
)	
Defendants,)	
)	

**MEMORANDUM IN SUPPORT OF PLAINTIFF’S DAMAGES AND
ORDER OF JUDGMENT AGAINST DEFENDANTS
JOHN HEIDEMAN AND KILIMANJHARO EQUITY INVESTMENTS, LLC**

NOW COMES, Plaintiff, Moran Industries, Inc. (“Moran”), pursuant to Fed. R. Civ. P. 55(2), for its memorandum in support of damages and order of judgment against Defendants John Heideman and Kilimanjharo Equity Investments, LLC (“Defendants”). In support thereof, Moran submits the Declaration of Kristine Martens attached hereto as Exhibit 1 and states as follows:

1. On November 2, 2007, Moran filed its Complaint for breach of franchise agreement and breach of promissory note against Defendants.
2. On July 24, 2008, this Court granted Moran’s motion for default against Defendants. [Doc. 28].
3. Moran submits this Memorandum in support of its damages and order of judgment against Defendants.
4. As detailed in the Declaration of Kristine Martens attached hereto and incorporated herein by this reference, Moran is owed \$317,694.76 as a result of Defendants’ breach of franchise agreement and breach of promissory note.

5. Moran prays for the entry of judgment against Defendants for the following damages (a copy of the proposed Order of Judgment is attached hereto as Exhibit2):

- a. \$17,339.04 for past due royalties, calculated as follows: 7% of reported sales, and estimates used for weeks in which reports were not submitted;
- b. \$125 for a payment returned for insufficient funds on May 9, 2007; and
- c. \$2,800.00 for amounts owed to the advertising fund, calculated as follows: \$100 per month for 7 months plus \$150 per month for 14 months;
- d. \$7,319.34 for late fees on royalty payments, calculated as follows: 3% of gross weekly sales for each weekly payment 3 weeks or more past due;
- e. \$19,846.14 for late fees on non-royalty payments, calculated as follows: the total amount due for payments other than royalties is subject to a 6% interest for the number of days from the oldest past due payment;
- f. \$18,109.80 for reasonable attorney's fees and court costs pursuant to Section 26 of the Franchise Agreement;
- g. \$113,044.34 for the net present value of future royalties, calculated as follows: the average yearly royalty multiplied by the remaining number of years on the agreement, discounted at a rate of 3.5%;
- h. \$139,111.10 for outstanding principal and interest under the Note;

WHEREFORE, Plaintiff, Moran Industries, Inc., respectfully prays for the entry of judgment in its favor and against defendants John Heideman and Kilimanjharo Equity Investments, LLC for the amount of \$317,694.76 and for any and all further relief that this Court deems just and appropriate.

Dated: August 29, 2008

Respectfully submitted,

MORAN INDUSTRIES, INC.

By: s/ Andrew P. Bleiman

One of its Attorneys

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CERTIFICATE OF SERVICE

The undersigned certifies that he filed the foregoing MEMORANDUM IN SUPPORT OF PLAINTIFF'S DAMAGES AND ORDER OF JUDGMENT AGAINST DEFENDANTS JOHN HEIDEMAN AND KILIMANJHARO EQUITY INVESTMENTS, LLC on August 29, 2008 via the CM/ECF system.

s/ Andrew P. Bleiman

Andrew P. Bleiman